

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**Ajax E Master Trust I, a Delaware Trust,
Wilmington Savings Fund Society, FSB,
Trustee**

Plaintiff

vs.

**Lisa A. Sanborn a/k/a Lisa Downen a/k/a
Lisa Brown a/k/a Lisabeth A. Brown and
Donald Downen**

Defendants

Midland Funding LLC

Party-In-Interest

CIVIL ACTION NO:

COMPLAINT

RE:

18 Maple Avenue, Scarborough, ME 04074

Mortgage:

October 24, 2006

Book 24516, Page 1

NOW COMES the Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, by and through its attorneys, Doonan, Graves & Longoria, LLC, and hereby complains against the Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant 28 U.S.C. § 1332(a)(1) (Diversity) because the Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds the sum or value of seventy-five thousand and 00/100 (\$75,000.00) dollars, exclusive of interest and costs. Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought under 28 U.S.C. § 2201.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the object of this litigation is a Note executed under seal currently owned and held by Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, in which the Defendant, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, is the obligor and the total amount owed under the terms of the Note is One Hundred Eighty-Four Thousand Four Hundred Twenty-Four and 68/100 (\$184,424.68) Dollars, plus attorney fees and costs associated with the instant action; thus, the amount in controversy exceeds the jurisdictional threshold of seventy-five thousand (\$75,000.00) dollars.
3. Venue is properly exercised pursuant to 28 U.S.C. §1391(b)(2) insofar as all or a substantial portion of the events that give rise to the Plaintiff's claims transpired in Maine and the property is located in Maine.

PARTIES

4. Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee is a Federally Chartered Savings Bank with a main office at 500 Delaware Avenue, Wilmington, DE.
5. The Defendant, Donald Downen, is a resident of Scarborough, County of Cumberland and State of Maine.
6. The Defendant, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, is a resident of Scarborough, County of Cumberland and State of Maine.
7. The Party-in-Interest, Midland Funding LLC, is located at c/o Corporation Service Company 45 Memorial Circle, Augusta, ME 04330.

FACTS

8. On December 16, 2005, by virtue of a Warranty Deed from Lisa Ann Sanborn, which is recorded in the Cumberland County Registry of Deeds in **Book 23525, Page 198**, the property situated at 18 Maple Avenue, Town of Scarborough, County of Cumberland, and State of Maine, was conveyed to Lisa Ann Sanborn and Donald Downen, being more particularly described by the attached Exhibit A;
9. On October 31, 20007, by virtue of a Quitclaim Deed from Donald Downen, which is recorded in the Cumberland County Registry of Deeds in **Book 25690, Page 21**, the property situated at 18 Maple Ave, Town of Scarborough, County of Cumberland, and State of Maine, was conveyed to Lisa Ann Sanborn, being more particularly described by the attached Exhibit A;
10. On October 24, 2006, Defendant, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, executed and delivered to America`s Wholesale Lender a certain Note under seal in the amount of \$195,000.00. Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown's personal liability is limited and/or extinguished by the Chapter 7 bankruptcy filed which resulted in a bankruptcy discharge. *See* Exhibit B (a true and correct copy of the Note is attached hereto and incorporated herein).
11. To secure said Note, on October 24, 2006, Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown executed a Mortgage Deed in favor of Mortgage Electronic Registration Systems, Inc., as nominee for America`s Wholesale Lender, securing the property located at 18 Maple Avenue, Scarborough, ME 04074 which Mortgage Deed is recorded in the Cumberland County Registry of Deeds in **Book 24516, Page 1**. *See* Exhibit C (a true and correct copy of the Mortgage is attached hereto and incorporated herein).

12. The Mortgage was then assigned to Bank of America, N.A., Successor by merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP by virtue of an Assignment of Mortgage dated April 4, 2012 and recorded in the Cumberland County Registry of Deeds in **Book 29500, Page 298**. *See* Exhibit D (a true and correct copy of the Assignment of Mortgage is attached hereto and incorporated herein).
13. The Mortgage was further assigned to BOFA Merrill Lynch Asset Holdings, Inc. by virtue of a Quitclaim Assignment dated January 7, 2016 and recorded in the Cumberland County Registry of Deeds in **Book 32906, Page 70**. *See* Exhibit E (a true and correct copy of the Quitclaim Assignment is attached hereto and incorporated herein).
14. The Mortgage was then assigned to BOFA Merrill Lynch Asset Holdings, Inc. by virtue of an Assignment of Mortgage dated June 6, 2016 and recorded in the Cumberland County Registry of Deeds in **Book 33301, Page 283**. *See* Exhibit F (a true and correct copy of the Assignment of Mortgage is attached hereto and incorporated herein).
15. The Mortgage was then assigned to Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee by virtue of an Assignment of Mortgage dated June 6, 2016 and recorded in the Cumberland County Registry of Deeds in **Book 33301, Page 284**. *See* Exhibit G (a true and correct copy of the Assignment of Mortgage is attached hereto and incorporated herein).
16. On November 16, 2020, the Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, were sent a Notice of Mortgagor's Right to Cure, as evidenced by the certified mailing (herein after referred to as the "Demand Letter"). *See* Exhibit H (a true and correct copy of the Demand Letter is attached hereto and incorporated herein).
17. The Demand Letter informed the Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, of the payment due date, the

total amount necessary to cure the default, and the deadline by which the default must be cured, which was thirty-five (35) days from receipt of the Demand Letter. *See* Exhibit H.

18. The Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, failed to cure the default prior to the expiration of the Demand Letter.
19. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, is the present holder of the Note pursuant to endorsement by the previous holder, payment of value and physical possession of the Note in conformity with 11 M.R.S. § 3-1201, et seq., and *Simansky v. Clark*, 147 A. 205, 128 Me. 280 (1929).
20. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, is the lawful holder and owner of the Note and Mortgage.
21. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, hereby certifies that all steps mandated by law to provide notice to the mortgagor pursuant to 14 M.R.S.A. § 6111 and/or Note and Mortgage were strictly performed.
22. Midland Funding LLC is a Party-in-Interest pursuant to a Writ of Execution in the amount of \$1,914.45 dated April 23, 2012, and recorded in the Cumberland County Registry of Deeds in **Book 29634, Page 274** and is in second position behind Plaintiff's Mortgage.
23. Midland Funding LLC is a Party-in-Interest pursuant to a renewed Writ of Execution in the amount of \$3,976.35 dated July 21, 2016, and recorded in the Cumberland County Registry of Deeds in **Book 33374, Page 53** and is in third position behind Plaintiff's Mortgage.
24. The total debt owed under the Note and Mortgage as of December 28, 2020 is One Hundred Eighty-Four Thousand Four Hundred Twenty-Four and 68/100 (\$184,424.68) Dollars, which includes:

Description	Amount
Principal Balance	\$170,467.82
Interest	\$12,714.06
Late Fees	\$1,288.35
Unpaid Interest	\$-61.35
Unpaid Charges	\$15.80
Grand Total	\$184,424.68

25. Upon information and belief, the Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, are presently in possession of the subject property originally secured by the Mortgage.

COUNT I – FORECLOSURE AND SALE

26. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, repeats and re-alleges paragraphs 1 through 25 as if fully set forth herein.

27. This is an action for foreclosure and sale respecting a real estate related Mortgage and title located at 18 Maple Avenue, Scarborough, County of Cumberland, and State of Maine. *See* Exhibit A.

28. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, is the holder of the Note referenced in Paragraph 10 pursuant to endorsement by the previous holder (if applicable) and physical possession of the aforesaid Note in conformity with Title 11, section 3-1201, et seq. of the Maine Revised Statutes and *Simansky v. Clark*, 147 A. 205, 128 Me. 280 (1929). As such, Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, has the right to foreclosure and sale upon the subject property.

29. The Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, is the current owner and investor of the aforesaid Mortgage and Note.

30. The Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, are presently in default on said Mortgage and Note, having failed to make the monthly payment due August 1, 2019, and all subsequent payments, and, therefore, have breached the condition of the aforesaid Mortgage and Note.

31. The total debt owed under the Note and Mortgage as of December 28, 2020 is One Hundred Eighty-Four Thousand Four Hundred Twenty-Four and 68/100 (\$184,424.68) Dollars, which includes:

Description	Amount
Principal Balance	\$170,467.82
Interest	\$12,714.06
Late Fees	\$1,288.35
Unpaid Interest	\$-61.35
Unpaid Charges	\$15.80
Grand Total	\$184,424.68

32. The record established through the Cumberland County Registry of Deeds indicates that there are no public utility easements recorded subsequent to the Mortgage and prior to the commencement of these proceedings affecting the mortgaged premises at issue herein.

33. By virtue of the Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown's breach of condition, the Plaintiff hereby demands a foreclosure and sale on said real estate, as affected by Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown's discharge in bankruptcy and, accordingly, this action does not seek any personal liability on the part of the Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, but only seeks *in rem* judgment against the property.

34. Notice in conformity with 14 M.R.S.A. § 6111 and/or Note and Mortgage was sent to the Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, on November 16, 2020, evidenced by the Certificate of Mailing. *See* Exhibit H.
35. The Defendants, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown and Donald Downen, are not in the Military as evidenced by the attached Exhibit I.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, prays this Honorable Court:

- a) Issue a judgment of foreclosure and sale in conformity with Title 14 § 6322, as affected by Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown's discharge in bankruptcy, and accordingly, this action does not seek any personal liability on the part of the Defendants, but only seeks *in rem* judgment against the property;
- b) Grant possession to the Plaintiff, Ajax E Master Trust I, a Delaware Trust, Wilmington Savings Fund Society, FSB, Trustee, upon the expiration of the period of redemption;
- c) Find that the Defendant, Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, is in breach of the Note by failing to make payment due as of August 1, 2019, and all subsequent payments, however, as affected by Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown's discharge in bankruptcy, this action does not seek any personal liability on the part of the Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, but only seeks *in rem* judgment against the property;
- d) Impose the applicable time periods for redemption, etc., as reflected in 14 M.R.S.A. § 6322;

- e) Find that while the Defendants, Donald Downen and Lisa A. Sanborn a/k/a Lisa Downen a/k/a Lisa Brown a/k/a Lisabeth A. Brown, have no personal liability in this matter, a Judgment of Foreclosure and Sale in this matter can be imposed *in rem* against the property commonly known as and numbered as 18 Maple Avenue, Scarborough, ME 04074;
- f) For such other and further relief as this Honorable Court deems just and equitable.

Respectfully Submitted,
Ajax E Master Trust I, a Delaware Trust,
Wilmington Savings Fund Society, FSB,
Trustee,
By its attorneys,

Dated: January 5, 2021

/s/John A. Doonan, Esq.
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